

## Message Text

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E.O. 11652: N/A  
TAGS: SNAR, PO  
SUBJ: NARCOTICS LAWS

REF: STATE 170187

CENTER FOR THE INVESTIGATION AND CONTROL OF DRUGS (CICD)  
IN LISBON PROVIDED EMBASSY NCO WITH FOLLOWING INFORMATION  
ON PORTUGAL'S NARCOTICS LAW (RESPONSES NUMBERED ACCORDING  
TO ORDER IN REFTEL):

### 1. POSSESSION

A. POSSESSION OF CANNABIS, COCAINE, HALLUCINOGENS AND  
NARCOTICS (READ HEROIN) IS FORBIDDEN. PENALTY FOR POSSESSION  
RANGES FROM 3 DAYS TO 2 YEARS IN PRISON. POSSESSION OF  
AMPHETAMINES AND BARBITUATES IS NOT FORBIDDEN, AND THEY CAN BE  
OBTAINED EASILY WITH A MEDICAL PRESCRIPTION.

B. NO

C. (1) NO  
(2) YES  
(3) NO

### 2. TRAFFICKING UNCLASSIFIED

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A. AT PRESENT, PORTUGAL HAS TWO DIFFERENT LAWS - ONE FOR  
NARCOTICS (1970) AND ANOTHER FOR PSYCHOTROPIC SUBSTANCES (1977).  
EACH LAW CONSOLIDATES THESE DRUGS INTO A GENERAL TRAFFICKING  
OFFENSE.

B. LAWS PREVENT JUDGES FROM ADMITTING BAIL. ALL TRAFFICKERS

HAVE TO WAIT IN PRISON FOR TRIAL. NARCOTICS LAW PROVIDES PENALTY OF 2 TO 8 YEARS PLUS FINE. PSYCHOTROPICS LAW PROVIDES PENALTY OF 8 TO 12 YEARS PLUS FINE. GOVERNMENT IS PREPARING NEW LAW FOR ALL KINDS OF DRUGS THAT WILL STANDARDIZE PENALTIES. PROPOSED PENALTY IS "8 TO 12 YEARS IN PRISON WHICH IS SOME CASES, SUCH AS THAT OF TRAFFICKERS TAKING ADVANTAGE OF OFFICIAL POSITION, COULD INCREASE TO 12 TO 16 YEARS.

C. LAW ENFORCEMENT AGENCIES MUST OBTAIN EVIDENCE OF "INTENT TO TRAFFIC" AS YET, NO SPECIFIC AMOUNT OF DRUG PRESUMES TRAFFICKING INTENT.

D. CURRENTLY NONE EXISTS, BUT THE NEW LAW WILL ALMOST CERTAINLY SPECIFY A CONSPIRACY OFFENSE. DRAFT LAW STATES THAT "THOSE WHO PROMOTE, CONSTITUTE, ORGANIZE OR INVEST MONEY IN ASSOCIATION WITH 3 OR MORE PEOPLE WITH THE INTENT TO COMMIT ILLICIT DRUG TRAFFICKING WILL BE PUNISHED WITH 16 TO 20 YEARS IN PRISON AND A FINE OF 2.5 TO 10 MILLION ESCUDOS" (APPROXIMATELY 55,000 TO 222,000 DOLLARS, AT CURRENT EXCHANGE RATE).

### 3. CULTIVATION, PRODUCTION, ELABORATION:

A. (1) YES

(2) YES

(3) YES

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B. ILLEGAL

C. PENALTIES ARE THE SAME AS FOR POSSESSION (IF THE DEFENDANT DOES IT ONLY FOR HIS OWN USE) OR FOR TRAFFICKING (IF THE DEFENDANT HAS INTENT TO SELL).

### 4. FINANCIAL

A. AS YET NO SPECIFIC OFFENSE EXISTS. COMMON LAW, HOWEVER, TREATS THE "MORAL AUTHOR" OF A CRIME AS IF HE WERE THE ONE WHO COMMITTED IT AND SOMETIMES THIS RULE IS USED TO INCRIMINATE THE FINANCIER. IN THE FUTURE, THE CONSPIRACY OFFENSE WILL INCLUDE THIS FINANCIAL PERSPECTIVE.

B. YES. THE EXPORT OF CURRENCY, WHETHER PORTUGUESE OR FOREIGN, IS VERY DIFFICULT.

### 5. CRIMINAL PROCEDURE.

A. FOR A MAXIMUM PERIOD OF 48 HOURS AFTER ARREST, THE DEFENDANT CANNOT COMMUNICATE WITH ANYONE EXCEPT THE JUDGE.

AFTER THE INITIAL INTERROGATION BY THE JUDGE DURING THIS PERIOD, THE DEFENDANT IS AUTHORIZED TO CONTACT HIS FAMILY, ATTORNEY, CONSUL AND FRIENDS, WITHIN LIMITATIONS ESTABLISHED BY THE PRISON ITSELF. LAW ENFORCEMENT AGENCIES MUST COLLECT PRELIMINARY EVIDENCE CONCERNING CRIME AND ITS PERPETRATOR PRIOR TO THE TIME OF THE INITIAL JUDICIAL INTERROGATION. THE JUDGE MUST THEN DECIDE WHETHER ARREST WAS WARRANTED. ONCE A PERSON IS ARRESTED, ONLY THE JUDGE CAN ORDER HIS RELEASE.

B. OVER A MAXIMUM PERIOD OF 40 DAYS, THE JUDGE MUST DECIDE WHETHER OR NOT THERE IS ENOUGH EVIDENCE TO FORMALLY CHARGE THE DEFENDANT. DURING THIS PERIOD, LAW ENFORCEMENT AGENCIES MUST COLLECT ALL AVAILABLE EVIDENCE, CONCLUDE THE UNCLASSIFIED

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INVESTIGATION, AND PRESENT THE JUDGE WITH WHATEVER EVIDENCE THEY HAVE IN THE CASE.

- C. (1) 1 OR 2 DAYS  
(2) UNKNOWN  
(3) SEVERAL MONTHS

D. AN ATTORNEY MUST BE PRESENT AT THE TRIAL. THE CONOMIC SITUATION OF THE DEFENDANT DETERMINES WHETHER HIS DEFENDER WILL BE PUBLIC OR PRIVATE.

E. PAROLE IS POSSIBLE AND IS GIVEN FREQUENTLY.

F. NO MINOR LESS THAN 16 CAN GO TO PRISON. JUVENILE DELINQUENTS CAN BE CHARGED IN A SPECIAL COURT. THE WORST CASES CAN MEAN THE MINOR'S DETENTION IN SPECIAL REFORMATORIES, BUT THIS IS RARE.  
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